THOMPSON COBURN LLP

Ethical and Compliant AI in Financial Services

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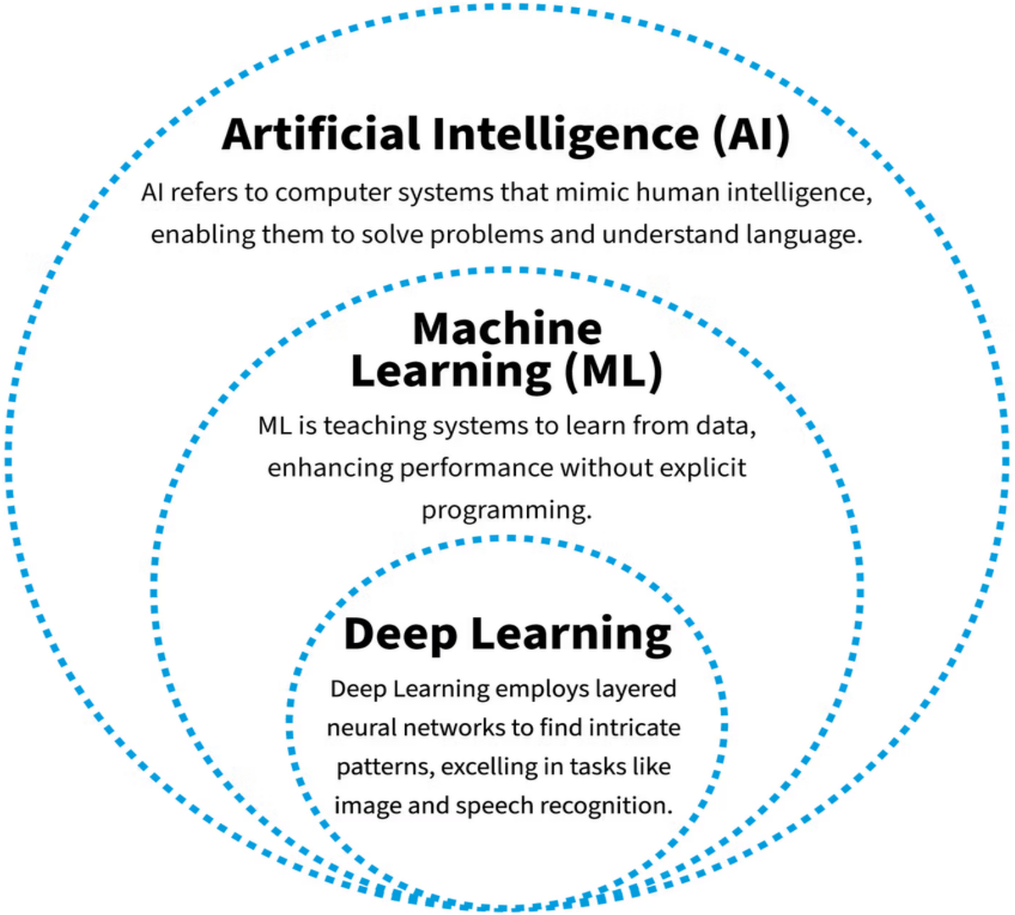
Overview

- Defining Artificial Intelligence
- Current U.S. Regulatory Landscape
- Organizational Considerations Before Implementing AI
- Developing and Implementing a Governance Framework for AI
- Q & A

Defining Artificial Intelligence



U.S. Regulatory Landscape

FEDERAL

Equal Credit Opportunity Act

Consumer Financial Protection Act

Fair Credit Reporting Act

Banking Secrecy Act/Anti-Money Laundering Act

Gramm-Leach-Bliley Act

STATE

State AI Laws (Utah, Colorado, Texas, New York and Illinois)

Comprehensive State Consumer Privacy Laws

...and what about pre-emption?

Federal Law

Equal Credit Opportunity Act	• Prohibits discriminatory lending
Consumer Financial Protection Act	• Prohibits unfair, deceptive, or abusive acts or practices
Fair Credit Reporting Act	• Governs how consumer data can be used in credit decision-making; • Consumer rights to access and correction
Graham-Leach-Bliley Act	• Requires institutional transparency regarding privacy notices and consumer opt-out rights

Federal Law

Banking Secrecy Act

A series of laws and regulations that help prevent money laundering and the financing of terrorism in the US

Anti-Money Laundering Act

A law that prohibits politically exposed persons (PEPs) from misrepresenting or concealing information about their assets, ownership, or funds to financial institutions

Federal Law

Insights from Recent Regulatory Enforcement Trends

FTC

Operation AI Comply targets 5 companies accused of using AI to deceive and exploit consumers

SEC

Claims against investment advisers for “AI Washing” or making misleading statements about their AI development and capabilities

State Law

Colorado Artificial Intelligence Act (CAIA) (Enacted May 2024; Effective Feb. 1, 2026)

Focused on addressing AI systems that make "consequential decisions," which includes decisions involving the provision of financial services. The law is particularly focused on protecting consumers against "algorithmic discrimination" or system bias in reaching decisions.

Enforced by the AG's office.

Currently no GLBA exemption but a narrower exemption for banks and credit unions subject to regulatory oversight under guidance or regulations that are substantially equivalent to or more stringent than the Colorado AI Act and that require audit and algorithmic discrimination mitigation processes.

State Law

Colorado Artificial Intelligence Act (CAIA) (Enacted May 2024; Eff. Feb. 1, 2026)

Disclosure Requirements:

- Detailed disclosure requirements by developers to deployers and incident reporting requirements
- Deployers required to provide consumers with explanation of covered adverse decisions
- Deployers to disclose to consumers their use of AI which includes: (1) the purpose of the high-risk AI system and the consequence of the decision, (2) identify the deployer, (3) describe the high-risk AI system, (4) direct the consumer toward the deployer's more detailed online website disclosures, and (5) provide them information on their right to opt-out

Detailed Impact Assessment Requirement: carried out annually, as well as within 90 days of each intentional and substantial modification of the system (**Note:** the developer must make these available to the deployer — and, "to the extent feasible," to other developers)

State Law

Utah's AI Policy Act (Enacted Mar. 2024, Effective May 1, 2024)

Utah's AI Policy Act brings generative AI under the scrutiny of Utah's broader consumer protection, healthcare, and financial services laws ("regulated occupations").

If a covered business uses generative AI, and the system deceives a consumer, the business will be held responsible for the fault, not the AI product itself.

Generative AI is defined as "an artificial system that: (i) is trained on data; (ii) interacts with a person using text, audio, or visual communication; and (iii) generates non-scripted outputs similar to outputs created by a human, with limited or no human oversight."

State Law

Texas Responsible Artificial Intelligence Governance Act (TRIAGA) (enacted June 22, 2025, effective January 1, 2026)

Second comprehensive AI Act in the United States after Colorado but is much narrower in its application.

Passed in the shadow of a proposed federal 10-year moratorium on state AI laws within the One Big Beautiful Bill Act, which presented some uncertainty around the Act's future enforcement. The proposed ban was stripped from the bill in an early Senate vote on July 1. For now, the moratorium on state AI regulation is not moving forward, but this could change in the future as Congress continues to debate the issue.

Key prohibitions applicable to non-governmental entities:

1. Development or deployment of AI in a way that "intentionally aims to incite or encourage" harmful or criminal behavior
2. Development or deployment of AI in a way that enables unlawful discrimination
3. Development or deployment of AI that aids in the distribution of deep fakes or sexually explicit content and minors

State Law

Texas Responsible Artificial Intelligence Governance Act (TRIAGA) (cont'd)

Regulatory sandbox provision that is inspired by the EU AI Act: The purpose of the program is to promote the safe and responsible use of AI systems by providing clear guidelines for experimentation. The attorney general and state agencies are blocked from filing charges or pursuing punitive action against a program participant for violation of laws or regulations waived during the testing period in the sandbox.

Artificial Intelligence Council*:* Group of experts whose job it will be to opine and advise on the regulatory sandbox program, the ethics of certain uses of AI systems, public safety issues, legal roadblocks hindering AI innovation, and other applicable topics. The council may also issue reports related to AI compliance, ethics, data privacy and security, and legal risks associated with the use of AI in Texas.

Amendments to Texas's Biometric Privacy Law: An individual has not provided consent for the capture or storage of a biometric identifier based solely on the existence of the image or other publicly available source that contains biometric identifiers unless the individual to whom the biometric identifiers relate made the image or other media publicly available. (limited application)

State Law

Comprehensive state consumer privacy laws

Most state laws contain an exemption for organizations that are subject to the GLBA... except **California**, which only contains an exemption for **data** covered by the GLBA.

Determining if you are subject to the CCPA

Generates at least $25 million in annual revenue

OR

Controls or processes personal data for over 100,000 or more unique consumers

OR

Derives more than 20% of your revenue from the sale of personal data

State Law

Key consumer rights under the CCPA/CPRA

- Right to access, correct and delete their personal information
- Right opt-out of the processing of their personal data for:
  - Targeted advertising/cross-contextual behavioral advertising
  - Sale of personal data
  - Profiling
- Right to data portability
- Right to limit the use and disclosure of sensitive personal information

Considerations Before Implementing AI

- Bias
- Accuracy & Accountability
- Data Privacy & Security
- Transparency & Explainability

Bias

Data Bias

Data collected

Sample population

Does not represent whole population

Actual population

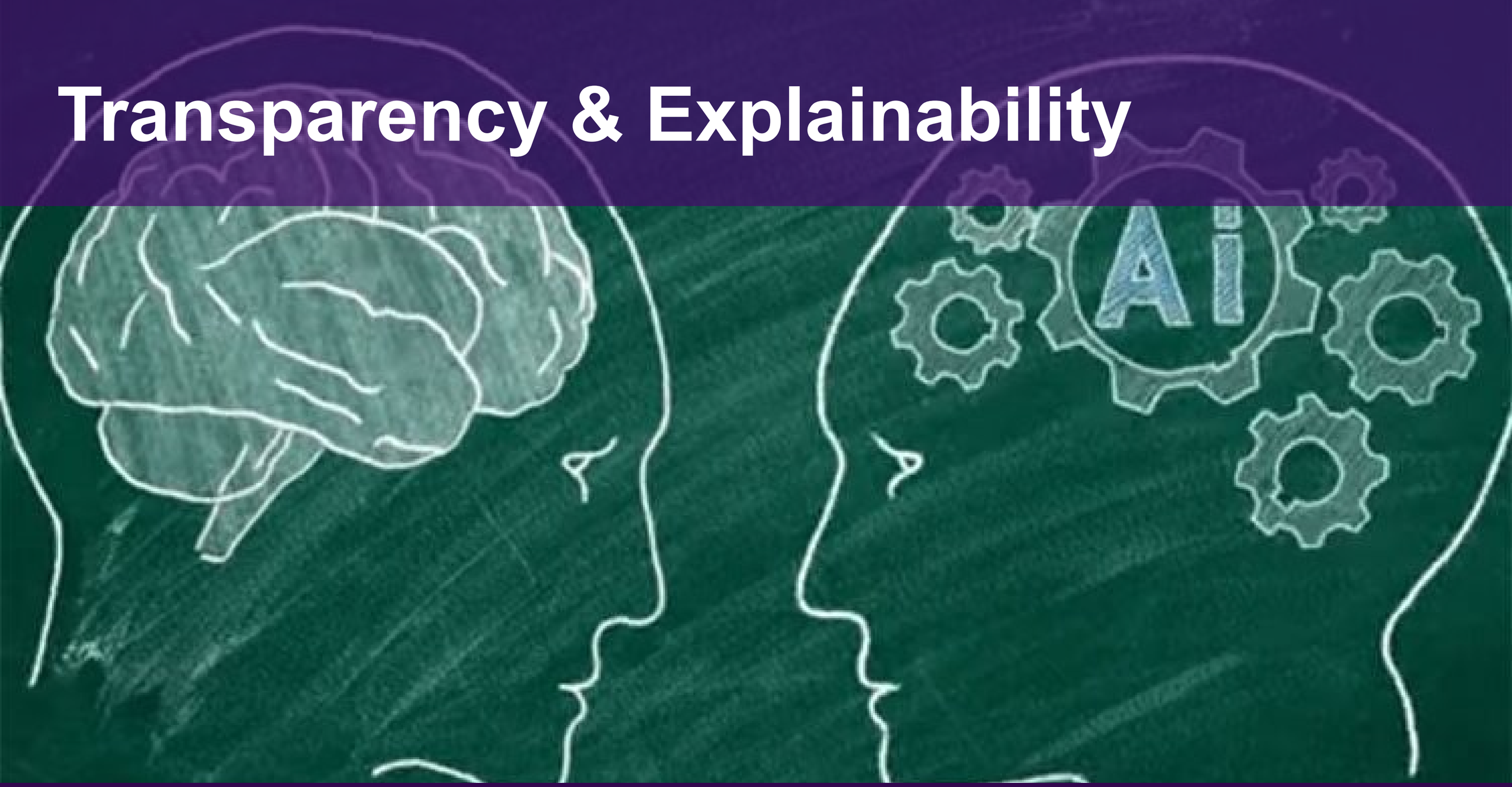
- Inaccuracy
- Inequality
- Incomplete
- Incompatible

Source:https://www.wallstreetmojo.com/data-bias/

Accuracy & Accountability

Source: https://www.safegraph.com/guides/why-accurate-data-is-important

Transparency & Explainability



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Source: https://www.brainfacts.org/neuroscience-in-society/tech-and-the-brain/2023/how-networks-in-the-brain-give-us-artificial-intelligence-100523

Data Privacy & Security

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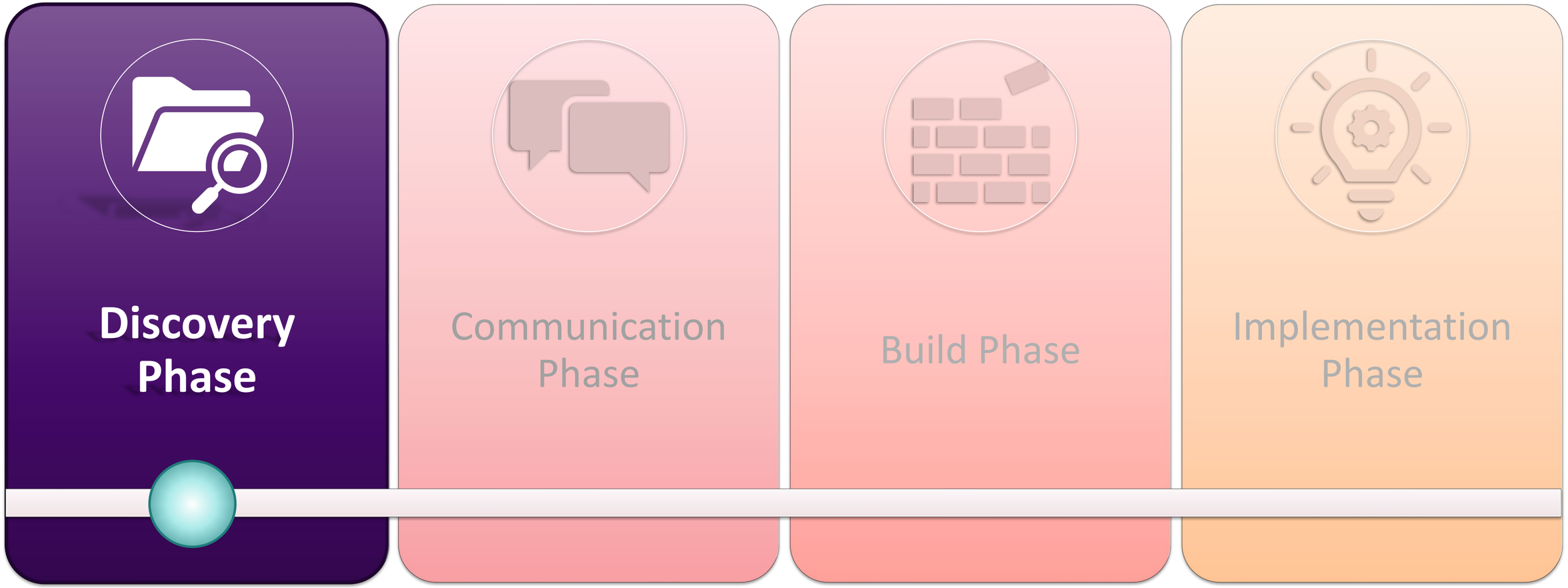
Source: https://azira.com/blogs/data-security-vs-data-privacy-whats-the-difference/

Developing an AI Governance Framework



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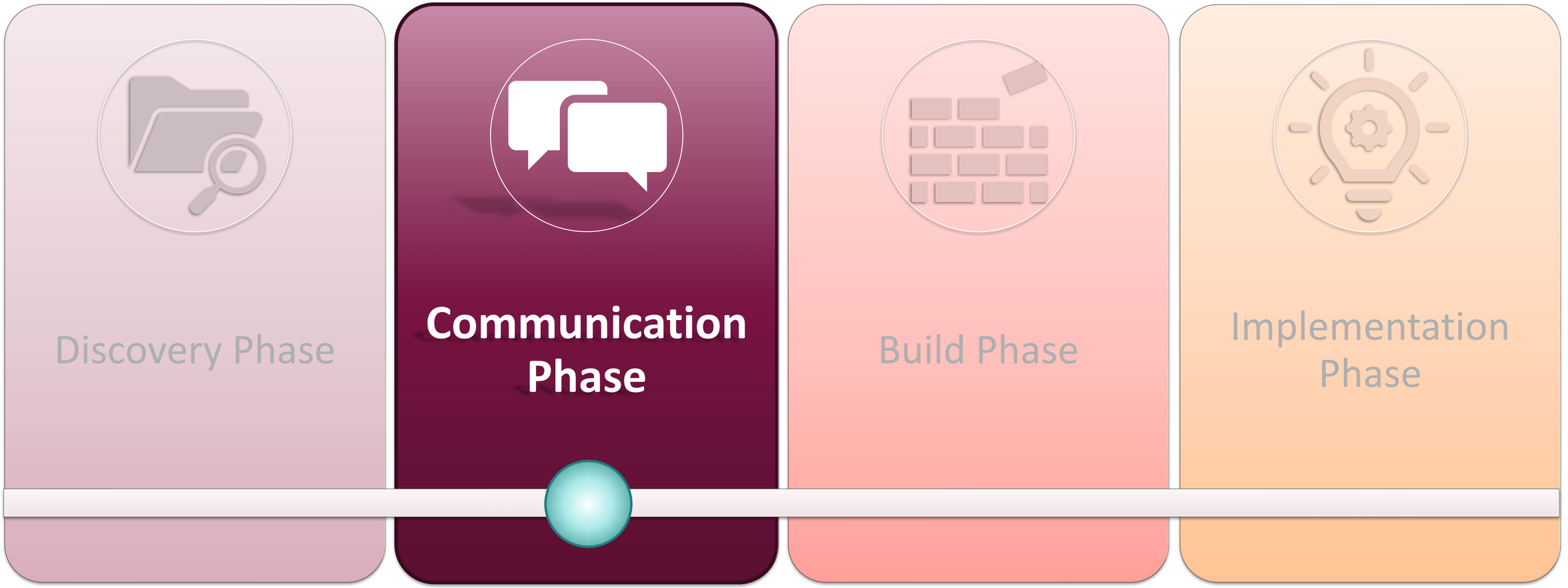

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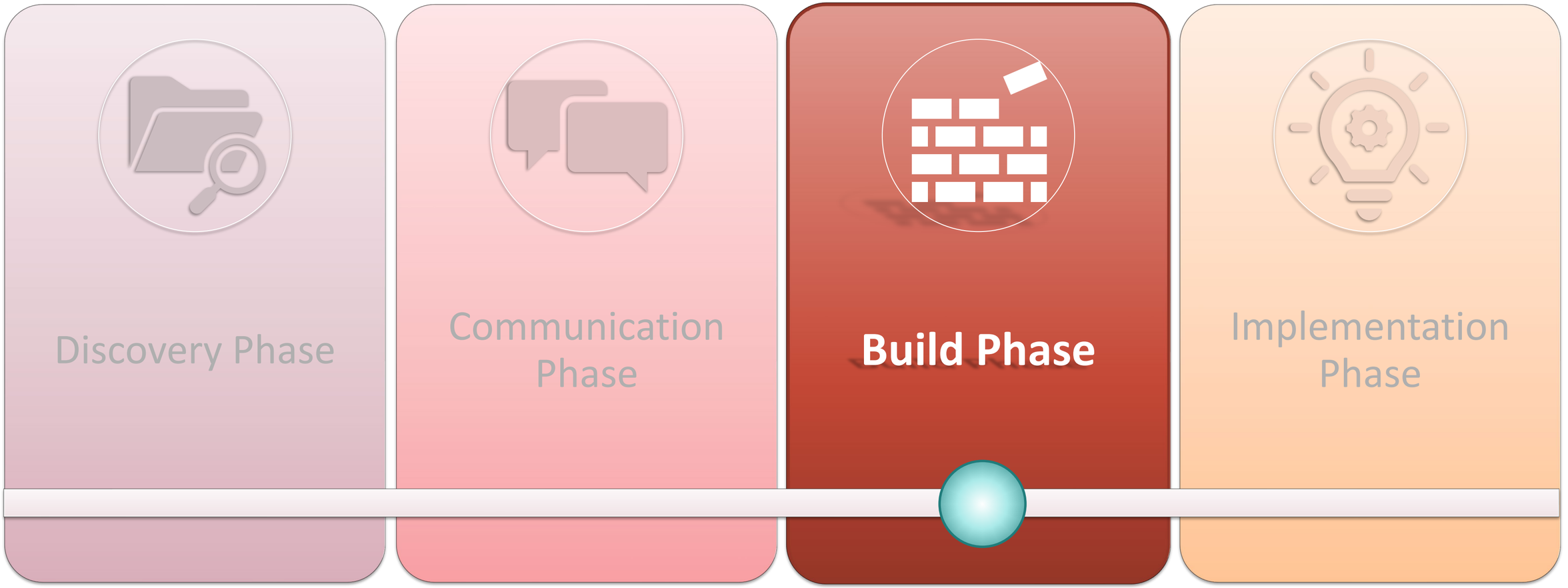

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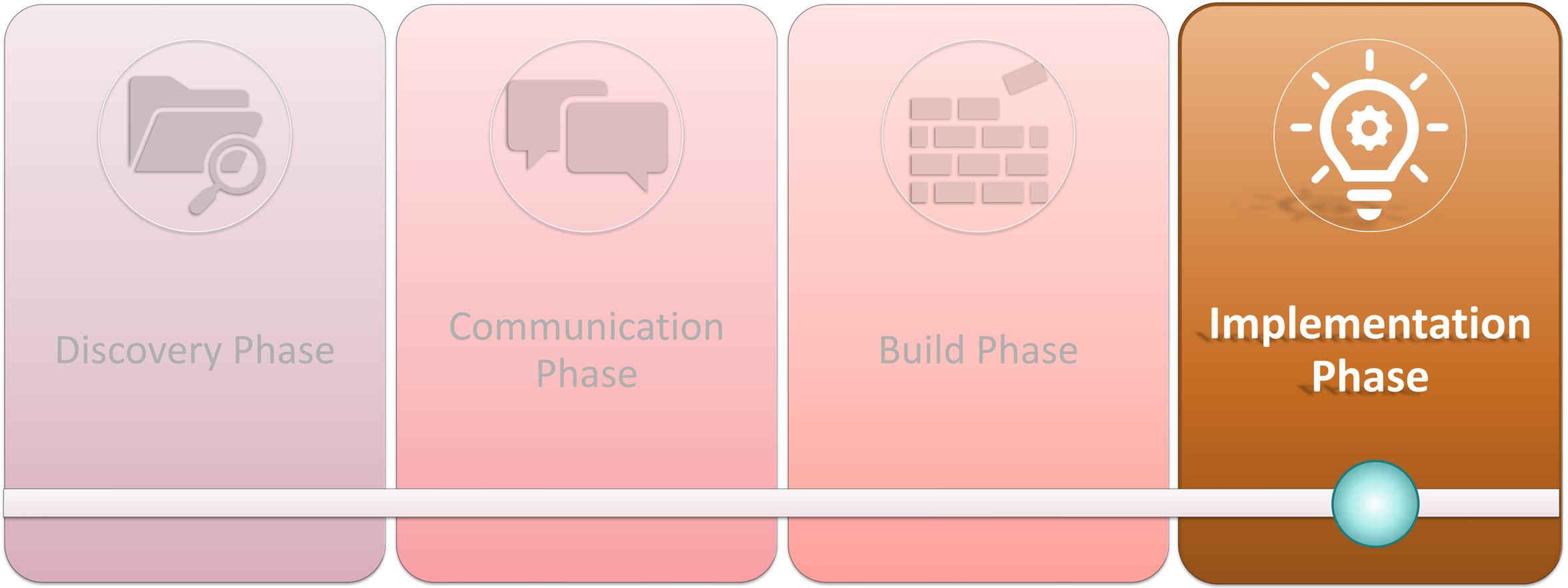

QUESTIONS?

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